

REMARKS

I. Summary of the Examiner's Action

A. Claim Rejections

As set forth in page 2 of the August 11 Office Action, claims 1, 5 – 7 and 14 – 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Application Publication No. 2004/0198366 to Crocker *et al.* (hereinafter “the Crocker application”) in view of United States Patent Application Publication No. 2006/0002338 to Guo (hereinafter “the Guo application”).

As set forth in page 9 of the August 11 Office Action, claims 2 – 4 and 8 – 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Crocker application in view of the Guo application.

As set forth in page 11 of the February 8 Office Action, claims 11 – 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Crocker application in view of the Guo application and further in view of United States Patent Application Publication No. 2004/0203948 to Provost *et al.* (hereinafter “the Provost application”).

These rejections are respectfully disagreed with, and are traversed below.

II. Applicants' Response – Claim Rejections

A. Rejection of Claims 1, 5 – 7 and 14 – 20 under 35 U.S.C. § 103(a)

Applicants have amended independent claims 1, 7, 15 and 18 - 20 to recite additional features of Applicants' invention. In particular, Applicants have made clear that "each connection parameter setting" corresponds to "a different service bearer". Support for the amendments is found throughout the application; *see*, for example, page 4, line 26 – page 5, line 4 and page 6, lines 9 – 27. No new matter has been added by these amendments.

Claim 1 (as amended) is reproduced here (emphasis added):

1. A method for establishing a wireless data transfer connection between a remote application and a controlling application, where the wireless link from the remote application is implemented by a wireless terminal connected to the remote application, the method comprising:

arranging a group of allowable connection parameter settings in a pre-determined order, each connection parameter setting corresponding to a different service bearer;

attempting to use a default connection parameter setting;

detecting that the default connection parameter setting for the wireless link is not usable; and

serially selecting another connection parameter setting for the wireless link from the group of allowable connection parameter settings in the pre-determined order one-after-another until a usable connection parameter setting is found, wherein when a usable connection parameter setting is found, a service bearer corresponding to the usable connection parameter setting is used for the wireless data transfer.

Applicants respectfully submit that neither the Crocker nor the Guo applications either describe or suggest the emphasized subject matter of claim 1, whether taken singly or in combination.

In particular, as described in the portions of the Crocker application reproduced at pages 14 and 15 of Applicants' Amendment dated June 6, 2006, the methods and apparatus of Crocker operate in a manner different from Applicants' invention. In Crocker's methods, the current operating conditions are detected and an alternate communications link is selected in dependence on the detected operating conditions. *See* Crocker application, paragraphs [0030]; [0031]; [0040]; and [0042].

In contrast to Applicants' invention as claimed, the methods disclosed in the Crocker application do *not* serially select "another connection parameter setting for the wireless link from the group of allowable connection parameter settings in the pre-determined order one-after-another until a usable connection parameter setting is found". Instead, in the event of failure of the default communication link, Crocker's methods select a substitute communications link on the basis of current operating conditions, *i.e.*, the selection order is not pre-determined.

In particular, it is important in Crocker that an alternate communications link not be selected in a pre-determined order because varying circumstances have to be accommodated. Crocker's methods are intended to be used in communicating information from automobiles to a telematics service center. Typical information communicated by an automobile to the telematics service center in Crocker's system

as described at paragraph [0004] concerns deployment of an airbag in the automobile. Such a situation obviously implicates safety and health concerns of passengers in the automobile (emphasis added):

“The first information that is conveyed after the establishment of a communications link between a mobile vehicle and a telematics service center may be critical with information such as the identification of the telematics unit, location of the mobile vehicle, and event type. For example, when an airbag is deployed, the telematics unit might send out a short message to a call center conveying information on the identification and location of the vehicle with the deployed airbag. If the communication link to the telematics service center fails before essential data is sent, the call center may not be able to take appropriate actions and deliver necessary services.”

Since safety and health concerns are at issue in Crocker, it is not surprising that the criticality of information to be communicated is taken into consideration when selecting a backup communications link, as described at Crocker, paragraph [0031] (emphasis added):

“There are a number of factors that may influence the choice of communications link including the type of failure, the velocity of the mobile vehicle, the bit or frame-error rates of the voice or data channel, the location of the mobile vehicle, a criticality assessment of the information to be communicated, an assessment of the type of data to be communicated, the basis for the call, a delay impact assessment, a reconnect attempt elapsed time, a reconnect attempt number, and the availability of digital or analog coverage ...”

Since selection of a backup communication link is context-dependent in Crocker, it is not seen what relevance Crocker’s teachings have to the claimed subject matter at

issue, where an alternate communication parameter setting (which corresponds to a particular service bearer) is serially selected “in the pre-determined order one-after-another until a usable connection parameter setting is found”.

Guo does not remedy the deficiency of the Crocker application. As now amended, the claims make clear that “connection parameter setting” corresponds specifically to those connection parameter settings associated with particular service bearers. Accordingly, a particular service bearer is selected by choosing the connection parameter setting associated with the service bearer. The relied-upon portions of the Guo application do not concern selection of an alternate service bearer. Rather, they merely concern varying power levels of transitional signals to reduce a level of instability in a wireless network.

Further, even assuming for the sake of argument that Examiner is correct that the Guo application concerns selection of alternate connection parameter settings corresponding to alternate service bearers (Applicants do not admit that this is factually correct), the methods described in Guo do not serially select connection parameter settings in a pre-determined order one after another until a usable connection parameter setting is found as in the case of Applicants’ invention as claimed. Rather, Guo describes a method where power requirements are estimated based on current network conditions or a set of reference power levels as described at Guo, paragraph [0049]:

“In this example, after the rate change request is received in Step S₁, the signal generating portion 12 uses the requested rate to calculate an estimate of the power which would be required for adequate transmission

of future signals to the user equipment 20. Calculation of this required power estimate can be based, for example, on current network conditions or may be based on a set of reference power levels required to achieve various transmission rates according to various network conditions (such reference power levels may be determined by an earlier simulation, for example).”

It does not follow from this or the remaining portions of Guo that power level settings are serially selected, one-after-another, in a pre-determined order until a usable power level setting is selected. Rather, the power level requirements are estimated, possibly using a look-up table describing reference power levels necessary to achieve desired transmission rates. In other words, the power level necessary is estimated and that power level is selected. Power levels are not serially selected in a predetermined order until an acceptable power level setting is achieved. Even in the latter example described by Guo where reference power levels are used, the power levels will not be serially selected in a pre-determined order one-after-another until a usable power level is found because the power level selected depends on the desired transmission rate and network conditions. Once these are known, the power level corresponding to these factors is selected; there is no reason to serially select the power level settings.

The fact that the power level may later be adjusted does not alter the conclusion, since the initial starting point is selected based on an estimate and not arrived at through a process where power levels are serially selected one-after-another in a pre-determined order until a usable power level setting is achieved.

Continuing, assuming for the sake of argument that the Examiner is correct in concluding that Guo does describe or suggest a method that serially selects another connection parameter from a group of allowable connection parameter settings in a pre-determined order until a usable connection parameter setting is found (Applicants do not agree that such a conclusion is correct), it is improper to combine the teaching of Guo with that of Crocker, because it changes the underlying principle of operation of Crocker's method. *See* MPEP 2143.01(VI), and renders Crocker's method unsuitable for its intended purpose. *See* MPEP 2143.01(V). The method of Crocker does not choose communication links in a pre-determined order because it must take situation context into consideration. If the teaching of Guo is combined with Crocker, a method is created where communication links are selected in a predetermined order (thus changing Crocker's principle of operation) and without reference to context (thus not permitting circumstances to be taken into condition and hence rendering Crocker's method unsuitable for its intended use – which is to select an alternate communications links based on circumstances).

For the foregoing reasons, Applicants respectfully submit that independent claim 1 is patentable over the Crocker and Guo applications, whether taken singly or in combination. Accordingly, Applicants respectfully request that the rejection of claim 1 be withdrawn. Applicants respectfully submit that independent claims 7, 15 and 18 – 20 are patentable for reasons similar to those recited with respect to claim 1, and for reasons attributable to their independently-recited features. Accordingly, Applicants respectfully request that the rejection of independent claims 7, 15 and 18 – 20 be withdrawn as well. Applicants further submit that dependent claims 5 – 6, 14,

and 16 – 17 are patentable both as depending from allowable base claims and for reasons attributable to their independently-recited features.

C. Rejection of Claims 2 – 4 and 8 – 10 under 35 U.S.C. § 103(a)

Applicants respectfully submit that claims 2 – 4 and 8 – 10 are patentable as depending from allowable base claims. In addition, Applicants submit the following additional remarks supporting the patentability of claims 2 – 4 and 8 – 10.

Applicants respectfully submit that it is not seen why it is obvious in view of the Crocker application that transmission is switched back to the default connection parameter after a pre-determined time. One of ordinary skill in the art, having the Crocker disclosure in mind, would more probably conclude that each data transmission attempt after a first occurs in accordance with the method actually disclosed in the Crocker patent, i.e., the current conditions are tested, and the communications method most suitable for current operating conditions is selected.

Further, the aspect of switching back to the default connection parameter setting is only taught by Applicants, so it is the epitome of hindsight to modify the Crocker disclosure in a manner that is only taught by Applicants.

D. Rejection of Claims 11 – 12 under 35 U.S.C. § 103(a)

Applicants respectfully submit that dependent claims 11 – 12 are patentable as depending from allowable base claims and for reasons attributable to their independently-recited features.

IV. Conclusion

Applicants submit that in light of the foregoing remarks the application is now in condition for allowance. Applicants therefore respectfully request that the outstanding rejections be withdrawn and that the case be passed to issuance.

Respectfully submitted,

November 9, 2006

Date

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